

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA**

**CM/ECF USERS' ADVISORY GROUP**

**JANUARY 23, 2001, MEETING**

**MINUTES**

A meeting of the CM/ECF Users' Advisory Group (UAG) was held on Tuesday, January 23, 2001. The meeting, which was held via video teleconference at the Court's Alexandria, Norfolk and Richmond facilities, commenced at 12:15 p.m. and concluded at 1:30 p.m. The following persons were in attendance at the meeting: Robert Weed, Barry Spear, Roy Lasris, Debera Conlon, Peggy Grivetti, Steve Kopacki, Chuck Miller, Renee Mitchell Paxton, Andrea Redmon, Barry Wells, Dick Napoli and Bill Redden.

**Opening Comments (*Bill Redden*)**

Bill Redden made some opening comments. Comments on the draft minutes from the UAG's November 14, 2000, meeting are due by Friday, January 26, 2001. When finalized, the minutes will be posted to the Court's ECF home page at the Court's Internet web site and transmitted, via e-mail, to registered ECF users. At Item 1.c. of the meeting agenda, information will be presented on a new Electronic Public Access Fee Impact Study being undertaken by the Administrative Office of the U.S. Courts (Administrative Office). In addition, a technical question presented by a UAG member on January 22, 2001, has been added to the meeting agenda at Item 4.

Bill also referenced other matters of interest:

Senator Phil Gramm (R-Texas), chairman of the Senate Banking, Housing and Urban Affairs Committee, indicated on January 22, 2001, that he plans to have the committee he chairs develop a new bankruptcy overall bill that would take a stance more strict toward debtors than the legislation former President Clinton pocket vetoed in December 2000. Senator Orrin Hatch, chairman of the Senate Judiciary Committee, indicated that his committee has primary jurisdiction over the bankruptcy legislation. It is unclear how this jurisdictional dispute between the two committees will be resolved. **[Update:** On January 30, 2001, Senator Charles Grassley (R-Iowa) introduced S.220, a bill that is identical to the final conference report approved last year by the Senate and House of Representatives, but pocket-vetoed as noted above. On January 31, 2001, Rep. George Gekas (R-Pa.) introduced H.R.333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. This measure is identical to the Grassley bill. Hearings on both bills were held during the week of February 5, 2001. In a February 8, 2001, news release issued by the Administrative Office, the Judicial Conference of the United States has asked Congress to address areas of concern in the bankruptcy reform legislation: direct appeals, the filing of income tax returns, data collection by the Judiciary, filing fees and bankruptcy rules.]

Kevyn Orr, director of the Executive Office for U.S. Trustees, resigned on January 19, 2001. Martha Davis, acting deputy director and former general counsel, will be serving as acting director until a new director is appointed by the attorney general.

According to Reuters, Computer Learning Centers, Inc., which administers computer training courses, has suspended classes and is exploring alternatives for the company, including bankruptcy. **[Update:** Since the UAG meeting, Computer Learning Centers, Inc. filed for protection under Chapter 7 of the Bankruptcy Code at the Court's Alexandria Division.]

Bill referenced a January 22, 2001, article in the *Richmond Times Dispatch* on the reduction in monthly access fees by a principal cable modem provider. The article suggested that other such providers also likely would be reducing their access fees in light of heightened competition among cable modem and DSL providers.

Bill noted a recently released "Study on Financial Privacy in Bankruptcy" report, which was a joint effort by the United States Departments of Justice and Treasury and by the Office of Management and Budget. The report, which contains recommendations on this important issue (along with three appendices), can be found at the ABI website ([www.abiworld.org](http://www.abiworld.org)).

Debera Conlon confirmed that Gregg Nivala, assistant U.S. Trustee serving the Richmond area, will become an assistant United States Attorney on a full-time basis in mid-February 2001. A successor to Gregg Nivala has not been named. Debera Conlon succeeds Gregg Nivala as the U.S. Trustee Office's representative to the UAG.

## **1. Current Status of Information of Interest**

### **a. Upgrade from CM/ECF Prototype Version 1 Status; Data Transfer Status (Barry Wells)**

Release Candidate 4 (RC4) of CM/ECF Version 1 is undergoing final testing by Administrative Office programmers and by automation staff members in the Bankruptcy ECF prototype and alpha courts. VAEB automation staff is working closely with Administrative Office staff to resolve final issues involving the transfer of VAEB ECF data that is residing in ECF server equipment maintained at the Administrative Office. If the remaining issues are not resolved timely, VAEB's planned upgrade from the prototype version of CM/ECF to Version 1 during the Presidents' Day federal holiday weekend (February 17-19, 2001), will be deferred. **[Update:** A notice has been issued to all CM/ECF registered users advising that the ECF System will be off-line and unavailable for document filing, docketing and viewing purposes from 12 Noon EST Friday, February 16, 2001, until 8:00 a.m. EST Tuesday, February 20, 2001. During this time period, VAEB data residing on the Administrative Office's ECF server equipment will be transferred to the VAEB ECF server equipment. Also, the current VAEB prototype version of CM/ECF will be upgraded to Version 1 of CM/ECF. CM/ECF staff at the Administrative Office and VAEB automation staff require this time to ensure that the ECF

data conversion and version upgrade processes are completed so CM/ECF will be operational by Tuesday, February 20. Any inconvenience to external users is regretted.]

**b. NIBS Conversion Update (*Karin Doggett*)**

VAEB automation staff is continuing to work with Administrative Office staff to complete the development of the NIBS conversion utility. Although the Administrative Office recently completed a full test conversion, a considerable number of identified problems need to be resolved. Re-testing will be undertaken shortly. The Administrative Office has committed additional staff resources to this effort. The conversion utility, when finalized and released, will be used by those NIBS courts converting from the NIBS case management system to CM/ECF. VAEB automation staff continues to anticipate the need for an extensive 90-to-120 day internal testing period before the NIBS data is converted to CM.

**c. WebPACER Electronic Public Access Fee; Electronic Public Access Fee Impact Study (*Bill Redden*)**

Bill Redden commented on the Judicial Conference policy concerning the WebPACER electronic public access fee. He referred to an extensive update set out at the draft minutes circulating for comment from the November 14, 2000, UAG meeting (Agenda Item 1 at draft Minutes pages 2-3). The update consists of an excerpt from a recently articulated Administrative Office policy position concerning the application of the fee.

Bill noted that the Clerk's Office will be providing additional information to registered ECF users on the fee and any court-authorized exemptions from being assessed the fee. In referring to his September 27, 2000, memorandum to the Bar on this subject, he advised that while the date for billing activation had not as yet been determined, it likely would become effective 90 days after Version 1 of CM/ECF becomes operational and replaces the current prototype version of CM/ECF. **[Update:** A memorandum, dated January 26, 2001, on the planned upgrade to CM/ECF Version 1 and the requirement that all CM/ECF registered users secure PACER accounts, was sent via Internet e-mail to all CM/ECF registered users. An article on this subject was included in the December 2000/January 2001 issue of the *ECF Flier*. This issue of the *ECF Flier* also was transmitted to all CM/ECF registered users and posted to the Court's ECF home page at the Court's Internet website.]

The Administrative Office's Electronic Public Access Office advised Bill Redden on January 23, 2001, that the Administrative Office had awarded a contract to PEC Solutions for a study of the value of electronic public access to attorneys. The study is to consider alternative pricing models and long term revenue projections for the program.

As part of PEC Solutions' data gathering process, VAEB staff, together with private and public sector attorneys, trustees and other external ECF users, will participate in a two-hour preliminary focus group video teleconference meeting with Administrative Office and PEC Solutions representatives on February 2, 2001. The participants will be linked for the video teleconference at the Court's Alexandria, Norfolk and Richmond facilities. **[Update:** Bill Redden and Dick Napoli participated in a January 25, 2001, teleconference with representatives from the Administrative Office PEC Solutions, Inc., Kearns & West, Inc. (a subcontractor to PEC Solutions, Inc.) in preparation for the February 2, 2001, meeting. There may be a follow-up focus group meeting at VAEB during the month of February. Additional information will be provided to the UAG following the February 2 meeting.]

## **2. Communication and Training Efforts**

### **a. Planned Orientation Sessions for External and Internal ECF Users (Renee Mitchell Paxton)**

In preparation for the impending upgrade from the prototype version of CM/ECF to Version 1, the Clerk's Office is developing orientation program sessions for external and internal ECF users. An orientation schedule was provided to UAG members at the meeting. This schedule will be included in the December 2000/January 2001 issue of the *ECF Flier* and the schedule will be transmitted to all registered, ECF users via Internet e-mail. In addition, the schedule will be posted to the Court's Internet home page and ECF home page. Internally, the schedule will be provided to clerk's office and chambers staff. These sessions are scheduled during the first two weeks of February 2001 at the Court's Alexandria, Norfolk and Richmond courthouse facilities. The orientation program sessions will cover: new features in CM/ECF Version 1, Lab sessions on CM/ECF Version 1, the new Internet-based Bankruptcy Online Support, the new CM/ECF Online training tutorial, and the need for all external CM/ECF registered users to register and establish an account with the PACER Service Center. **[Update:** The planned orientation program sessions for external and internal users remain on schedule. All of the above noted information transmittals also have taken place.]

### **b. Court Facilities/Equipment Enhancements for Training Purposes (Bill Redden)**

Bill noted that the Court has procured new computer equipment for use in the conference rooms at the Norfolk and Richmond Courthouse facilities. This equipment (Ipaq, CPUs, flat screen panel displays and full-sized keyboards) will be used to facilitate ECF-related training. At the Alexandria Courthouse, new PC-training workstations have been procured and are being outfitted with computer equipment. At Richmond, the Court of Appeals and Bankruptcy Clerks' Offices have entered into a project to create a joint training room at the U.S. Courthouse facility, which both offices will use principally for ECF-

related training purposes. (The Fourth Circuit Court of Appeals is a prototype court for the Appellate version of CM/ECF.)

**c. FJC CM/ECF Version 1 Tutorial (*Renee Mitchell Paxton and Andrea Redmon*)**

The Federal Judicial Center (FJC) is making final modifications to its CM/ECF Version 1 compliant web-based online tutorial. On January 11, 2001, at the Alexandria Courthouse, an FJC staff member, before a group of VAEB representatives and external ECF users, conducted a field test of the tutorial. The tutorial demonstration was well received by the participants. The tutorial consists of six interactive modules. (Each tutorial section consists of a task instruction box, a navigation bar and a simulated ECF screen. The navigation bar tracks the user's progress through the tutorial section and also lets the user navigate backward, forward and to the ECF tutorial home page. No plug-ins are required and users do not need user passwords or logins to access the online tutorial. The tutorial, which will reside on the VAEB ECF server equipment, supports both Netscape and Microsoft Internet Explorer browsers.) **[Update:** The FJC has advised VAEB staff that the tutorial will be released to the Court for public access by February 14, 2001.]

**3. Hand-out Materials (*at meeting sites*)**

Several hand-out materials were provided to the UAG members and court representatives at the UAG meeting, as follows: (1) two tables showing VAEB statistics on NIBS and ECF petition filings from July 1999 through December 2000; (2) CM/ECF prototype court statistics, including VAEB statistics, as of December 31, 2000; (3) a flier announcing the new CM/ECF Version 1 orientation program for attorneys, trustees and their staff; and (4) an e-mail from the Administrative Office's Electronic Public Access Office on the Administrative Office's Electronic Public Access Fee Impact Study.

**4. Technical Questions**

A technical question was submitted to VAEB automation staff on January 22, 2001, on the following: modification of external users' accounts to permit file attachments to e-mail transmittals in lieu of URLs to file(s) on servers. In reviewing this question, the VAEB automation staff interpreted the inquiry as concerning the e-mail notification sent on an hourly/daily basis of documents being filed electronically in CM/ECF. The VAEB automation staff concluded that this was a basic CM/ECF system function that should not (and likely could not) be changed locally.

**5. Issues of Interest to UAG Members**

**a. ECF Order Processing Software Program Update (*Barry Wells*)**

Barry Wells reported on the ECF order processing software program that he is developing. Initial testing of the Case Administrator component of the

program has taken place and additional testing will be undertaken next month on the nearly completed Judge component of the program. A number of internal policy and Local Bankruptcy Rule impact considerations are under review and will need to be resolved before the program becomes operational.

**b. Chapter 7 Asset Case File Maintenance by the Clerk's Office (*Dick Napoli*)**

Dick Napoli reported that effective January 1, 2001, the use of paper case files for ECF Chapter 7 asset cases was discontinued district wide. Paper files only will be maintained by the Clerk's Office in ECF Chapter 11 cases and adversary proceedings after December 31, 2000. A notice to this effect was posted in December 2000.

**c. ECF Courtroom Project Update (*Barry Wells*)**

The ECF courtroom project is nearing completion district wide with the installation of PC equipment in each of the Judge's courtrooms. Training on equipment usage will commence once its installation has been completed.

**6. Other Issues of Interest**

No additional issues of interest were raised at the meeting.

**7. Next Meeting Date, Location(s) and Time**

It was agreed that the next UAG meeting would be scheduled for Tuesday, March 20, 2001. The meeting will be held via video teleconference, through Sprint, from 12:00 noon to 2:00 p.m., at the Court's Alexandria, Norfolk and Richmond facilities. UAG members are requested to provide Bill Redden with proposed agenda items, issues of interest and technical questions on a date to be determined later [March 9, 2001]. This will facilitate a review by court representatives of any submitted agenda items and technical questions prior to the next scheduled UAG meeting. An agenda will be sent out for the next meeting [March 16, 2001].

The meeting adjourned at 1:30 p.m.

Respectfully submitted,

William C. Redden